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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,949	09/10/2003	Jahangir Rastegar	10002Z	3511
7590 12/01/2004			EXAMINER	
Thomas Spinelli 2 Sipala Court East Northport, NY 11731			SHAKERI, HADI	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/658,949	Applicant(s) RASTEGAR ET AL.	
	Examiner Hadi Shakeri	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

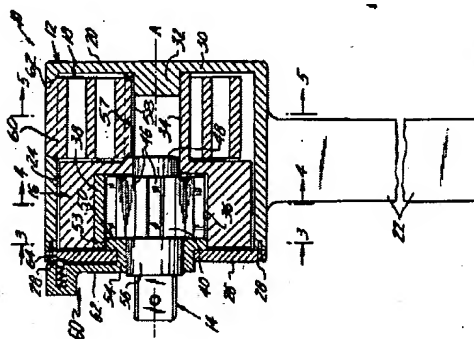
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

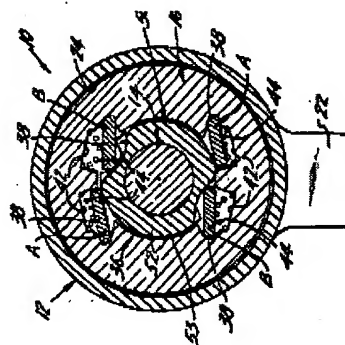
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson, US Patent No. 4,243,109.

Anderson discloses all the limitations of claim 1, i.e., a manually operated impact tool comprising a driven member (14) having means for retaining and driving a fastener and having at least one impact stop (46), a driving member (12) rotatably connected to the driven member, an impact mass (16) movable along a path in communication with the stop (through 38), energy storing means (18) for storing energy upon rotation of the driving member, and energy releasing means (50) for releasing the stored energy.



Regarding claim 2, the means for retaining and driving a nut (limitations given to the workpiece is not accorded patentable weight), i.e., (14), is formed for mating cooperation with a socket which inherently meets the limitation of a hexagonal recess.



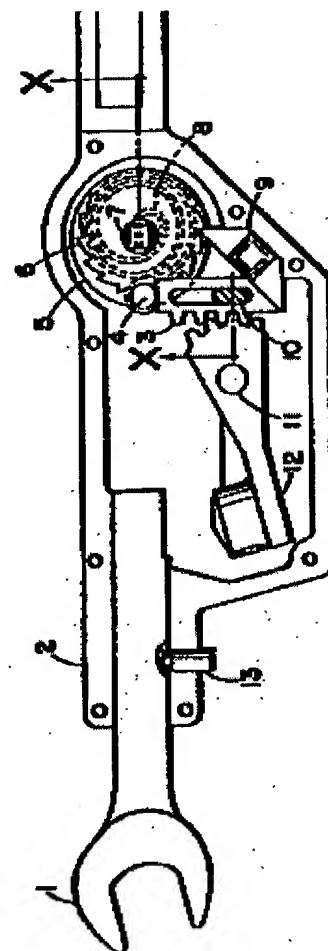
Regarding claims 3 and 4, Anderson meets the limitations.

Regarding claims 5-11, Anderson meets the limitations, e.g., adjustment means (64) (66).

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3. Claims 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Russ, US Patent No. 4,474,091.

Russ discloses all the limitations of claim 12, i.e., A manually operated rotatable impact tool comprising: a driven member (2) having means (shown here by 1) for retaining and driving a fastener about an axis, the driven member further having at least one anvil surface (cooperating with 12) offset from the axis; a driving member rotatably connected to the driven member for driving the driven member about the axis to loosen or tighten the fastener, the driving member having at least one anvil (impact mass 12) in cooperation with the at least one anvil surface; biasing means (spring 8) for biasing the at least one anvil surface and at least one anvil together; at least one cam (ratchet 6) for engaging a surface (e.g., 3, 9, gear rack) of the driving member and for moving the at least one anvil apart from the corresponding at least one anvil surface upon rotation of the cam and for releasing the driving member such that the spring pulls the at least one anvil to impact the corresponding at least one anvil surface to create a torque around the axis.



Regarding claims 13 and 14, Russ meets the limitation, i.e., (teeth 6) and rack gear.

Allowable Subject Matter

4. Claims 16-20 are allowed.

5. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: driven member having at least one anvil, i.e., movable stop, offset from the axis rotatably disposed in the driven member into and out from a path and impact mass movable along the path with a flexible member along with the other limitations as recited in claim 16 has placed these claims allowable over prior art.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Response to Arguments

8. Applicant's arguments filed 080404 have been fully considered but they are not persuasive.

The argument regarding claims 1-11 and that the impact stop is movable within the path in communication with the impact stop and that the spring as disclosed by Anderson is not disposed within the path, is not persuasive, since the path as broadly recited, i.e., lacking any structures to limit the configuration or definition of the path is met by the housing or cylindrical cavity (24) of Anderson.

Regarding the argument that the biasing means of Russ only biases the ratchet wheel and does not act to bias the anvil and impact mass together, it is noted that as indicated by the Applicant, the biasing means of Russ, spring (8) biases, biases the rotation of the ratchet wheel (6) or the cam in one direction and inherently would bias the hammer or impact mass of Russ to engage the impact surface through, e.g., elements 3, 4, 9, 10, 11 and 12, i.e., the spring indirectly through these elements acts to pull the mass and the surface together to create the impact, per Abstract, lines 2-4.

It is noted that although informal drawings with the specification of the parent Application now, US Patent No. 6,679,143, included Figs. 15 and 16, the US Patent as published does not include the figures. Applicant may wish to file a certificate of correction to include the figures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is (571) 272-4495. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hadi Shakeri
Primary Examiner
Art Unit 3723
November 29, 2004